

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
C. ROBERT ALLEN, III by LUKE ALLEN, as Guardian for :
the Property Management of C. Robert Allen, III, :
:

Plaintiff, :

- against - :

CHRISTOPHER DEVINE, *et al.*, :

Defendants. :
----- x

CHRISTOPHER DEVINE, *et al.*, :

Third-Party Plaintiffs, :

- against - :

LUKE ALLEN, :

Third-Party Defendant. :
----- x

09-cv-0668

(ADS) (ETB)

**NOTICE OF
MOTION TO
DISMISS THE
THIRD-PARTY
COMPLAINT FOR
LACK OF SUBJECT
MATTER
JURISDICTION AND
FAILURE TO STATE
A CLAIM**

PLEASE TAKE NOTICE that, upon the annexed Declaration of Alexandra Wald dated May 2, 2011, with exhibits attached thereto, the accompanying Memorandum of Law and all prior papers, pleadings, and proceedings in this action, third-party defendant Luke Allen, by his undersigned attorneys, Cohen & Gresser LLP, will move this Court before the Honorable Arthur D. Spatt, at the United States District Court for the Eastern District of New York, 290 Federal Plaza, Central Islip, New York on a date and time to be determined by the Court or as soon thereafter as counsel can be heard, for an order (1) dismissing the Third-Party Complaint in its entirety for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6), 14 and 18 and due to lack

of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1), 14 and 18, and (2) granting such other and further relief as this Court deems just and proper.

Dated: New York, New York
May 2, 2011

COHEN & GRESSER LLP

By: /s/
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